



MINUTES OF THE BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES, STATE OF CALIFORNIA

Sachi A. Hamai, Executive Officer-  
Clerk of the Board of Supervisors  
383 Kenneth Hahn Hall of Administration  
Los Angeles, California 90012

At its meeting held September 11, 2007, the Board took the following action:

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At the time and place regularly set, notice having been duly given, the following item was called up:

Hearing on amendment to the County Code, Title 22 – Planning and Zoning, establishing new development standards and case processing procedures and conditions for the construction of wireless telecommunications facilities providing for proposed facilities to be subject to a site plan review, director's review or a conditional use permit, depending on the size of the facility, and to establish enforcement fees; also approval of the Negative Declaration (ND) and determination that the project will not have a significant effect on the environment, and that the ND reflects the independent judgment and analysis of the County, as further described in the attached letter dated May 8, 2007 from the Director of Planning.

All persons wishing to testify were sworn in by the Executive Officer of the Board. Karen Simmons and Ron Hoffman representing the Department of Regional Planning and Donald L. Wolfe representing the Department of Public Works testified. Opportunity was given for interested persons to address the Board. Scott Longhurst, Mindy E. Hartstein and Robert Tystad and others addressed the Board. Correspondence was presented.

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Supervisor Knabe made the following statement:

“County Counsel has advised us on the impact of the recently decided Federal Ninth Circuit Court of Appeals decision, Sprint v. County of San Diego ("Sprint"), and the more recent preliminary injunction issued by the Federal District Court against the County of Los Angeles in the lawsuit entitled NextG Networks of California, Inc. v. County of Los Angeles ("NextG").

“Based upon the advice of the County Counsel, I believe that revisions to the proposed ordinance are necessary to maintain consistency with the legal principles announced by the courts in those decisions, particularly regarding the regulation of wireless telecommunications facilities in public rights-of-way. Furthermore, based upon the public testimony and the changes suggested by the Department of Regional Planning, additional revisions to the proposed ordinance are also appropriate.”

Therefore, Supervisor Knabe made a motion, seconded by Supervisor Antonovich, that the Board take the following actions:

1. Consider and adopt the Negative Declaration (ND) together with any comments received during the public review process, made a finding on the basis of the entire record before the Board that there is no substantial evidence that the project will have a significant effect on the environment, find that the ND reflects the independent judgment and analysis of the Board;
2. Approve the recommendation of the Regional Planning Commission as reflected in the proposed ordinance, along with the additional changes which will establish new case processing procedures and conditions of use for telecommunication facilities, and determine that the proposed amendments are consistent with the Los Angeles County General Plan;

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3. Instruct County Counsel to prepare an ordinance amending Title 22 of the Los Angeles County Code as recommended by the Commission with the following changes:
  - Eliminate the Department of Regional Planning's review of wireless facilities within public rights-of-way, except for central co-location facilities, which will be subject to the Central Site permit process;
  - Remove the wording "to the satisfaction of the director, hearing officer or regional planning commission" from the proposed ordinance; and
  - Allow wireless telecommunication facilities on County-owned or County-leased properties that contain County wireless facilities with the requirement of a site plan review by the Department of Regional Planning and the approval of the request by the Internal Services Department.
4. Instruct County Counsel, in consultation with the Department of Public Works, to prepare an ordinance amending Title 16 of the Los Angeles County Code to include appropriate development standards to address aesthetic issues of wireless facilities within the public rights-of-way; and
5. Instruct County Counsel to submit to the Board for approval said ordinances amending Titles 16 and 22 of the Los Angeles County Code in such a manner that both will become effective simultaneously.

After discussion, Supervisor Yaroslavsky offered a suggestion that Supervisor Knabe's recommendation be amended to:

1. Require all appurtenant equipment within public road rights of ways that is not pole-mounted to be placed underground whenever feasible. Where this is not possible, in areas within non-urban land use classifications, this equipment shall be fully screened with locally existing natural materials;

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2. Require that cell phone towers and appurtenant facilities not displace space within the public road right-of-way that is currently used for vehicle parking and ensure that the placement of these facilities will not interfere with the public's unfettered use of sidewalks or trails; and
3. Direct the County's legislative advocates in Sacramento and Washington D.C. to seek opportunities to expand the County's authority to regulate wireless facilities and oppose any efforts to further limit the County's existing discretion.

After further discussion, Supervisor Yaroslavsky offered an additional amendment to Supervisor Knabe's recommendation No. 4 to include the Chief Executive Officer in the preparation of the Title 16 amendments. Supervisor Knabe accepted Supervisor Yaroslavsky's aforementioned amendments.

Therefore, on motion of Supervisor Yaroslavsky, seconded by Supervisor Knabe, duly carried by the following vote: Ayes: Supervisors Molina, Burke, Knabe and Yaroslavsky; Noes: Supervisor Antonovich, the Board closed the hearing and took the following actions:

1. Considered and adopted the attached Negative Declaration (ND) together with any comments received during the public review process, made a finding on the basis of the entire record before the Board that there is no substantial evidence that the project will have a significant effect on the environment, find that the ND reflects the independent judgment and analysis of the Board;
2. Approved the recommendation of the Regional Planning Commission as reflected in the proposed ordinance, along with the additional changes which will establish new case processing procedures and conditions of use for telecommunication facilities, and determine that the proposed amendments are consistent with the Los Angeles County General Plan;

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3. Instructed County Counsel to prepare an ordinance amending Title 22 of the Los Angeles County Code as recommended by the Commission with the following changes:
  - Eliminate the Department of Regional Planning's review of wireless facilities within public rights-of-way, except for central co-location facilities, which will be subject to the Central Site permit process;
  - Remove the wording "to the satisfaction of the director, hearing officer or regional planning commission" from the proposed ordinance; and
  - Allow wireless telecommunication facilities on County-owned or County-leased properties that contain County wireless facilities with the requirement of a site plan review by the Department of Regional Planning and the approval of the request by the Internal Services Department.
4. Instructed County Counsel and the Chief Executive Officer, in consultation with the Department of Public Works, to prepare an ordinance amending Title 16 of the Los Angeles County Code to include appropriate development standards to address aesthetic issues of wireless facilities within the public rights-of-way;
  - Require all appurtenant equipment within public road rights of ways that is not pole-mounted to be placed underground whenever feasible. Where this is not possible, in areas within non-urban land use classifications, this equipment shall be fully screened with locally existing natural materials;
  - Require that cell phone towers and appurtenant facilities not displace space within the public road right-of-way that is currently used for vehicle parking and ensure that the placement of these facilities will not interfere with the public's unfettered use of sidewalks or trails;

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5. Instructed County Counsel to submit to the Board for approval said ordinances amending Titles 16 and 22 of the Los Angeles County Code in such a manner that both will become effective simultaneously; and
6. Directed the County's legislative advocates in Sacramento and Washington D.C. to seek opportunities to expand the County's authority to regulate wireless facilities and oppose any efforts to further limit the County's existing discretion.

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Attachments

Copies distributed:

Each Supervisor  
Chief Executive Officer  
County Counsel  
Director of Planning  
Scott Longhurst  
Mindy E. Hartstein  
Robert Tystad